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June 5, 2015

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OFFICE OF
2015 JUN -8 PM 5:13
FEDERAL ELECTION COMMISSION

BY HAND

Jeff S. Jordan, Esq.
Assistant General Counsel
Complaints Examination & Legal Administration
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

**Re: RR 15L-09
Democrats Win Seats (DWS PAC) and Vickie Winpisinger, in her official capacity
as treasurer**

Dear Mr. Jordan:

I write on behalf of my clients, Democrats Win Seats (DWS PAC) and Vickie Winpisinger, in her official capacity as Treasurer (collectively, "the Committee"), in response to the above-referenced referral. We respectfully submit that the Commission should take no further action on this referral and close the matter.

The referral involves no substantive noncompliance with the limitations or prohibitions of the Federal Election Campaign Act of 1971, as amended, 52 U.S.C. § 30101 *et seq.* (2015) ("the Act"). Nor does it involve any lapse of public disclosure. It involves simply the timeliness with which the Committee forwarded permissible contributions that were timely disclosed. When the Committee collected and forwarded these contributions, it was engaged in its first substantial effort to serve as a lawful "conduit" for other candidates. *See* 11 C.F.R. § 110.6 (2015). The Committee has since taken steps to comply with the 10-day forwarding requirement and has had no recurrence of this issue. Indeed, the Commission's records regarding the Committee show no history of material non-compliance. Enforcement here would depart from the Commission's past practice in responding to similar issues.

DISCUSSION

The Committee has historically supported a wide range of candidates through direct contributions. For the first time, in April 2014, the Committee undertook to collect and forward contributions earmarked for a wide array of candidates. The contributions identified in the referral presented no issues as to their compliance with the Act's limits and restrictions. All were properly and timely disclosed: indeed, this referral was generated solely by the Committee's own reports. However, the period between receipt and forwarding exceeded the 10 days prescribed by 11 C.F.R. §§ 110.6(c)(1)(iii) and 102.8(a), by an additional 11 days. As the Committee told the

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Reports Analysis Division, there was a lack of familiarity with the 10-day timeframe among the Committee's staff and consultants. However, when the Committee identified the issue on its own, and before receiving the letter from RAD that resulted in this referral, it took steps to instruct relevant staff and consultants on the 10-day timeframe. The Committee has since had no recurrence of this same issue.

The delayed forwarding did not affect the quality of disclosure available to the public. The identified contributions were received on April 10, 2014 and forwarded on May 1, 2014. This period fell after the close of books for the April 15 Quarterly Report, and before the close-of-books of any report that any recipient was required to file. The ten identified recipients were all candidates. All of them except one were not required to file their next reports until July 15, for activity through June 30. The one remaining candidate was running in California in the June 3, 2014 primary election. But the close-of-books for that candidate's Pre-Primary Report was May 14, 2014—well after the contributions were forwarded.

As applied to earmarked contributions, the purpose of the 10-day timeframe is to ensure that the recipient committees' treasurers can "keep an account of the identification of ... contributors ... in situations where someone other than the treasurer received the contribution." Amendments to Federal Election Campaign Act of 1971; Regulations Transmitted to Congress, 45 Fed. Reg. 15,080, 15,084 (1980). The Commission enforces the 10-day requirement mainly through Alternative Dispute Resolution. *See, e.g.*, ADR 352 (involving 363 contributions and resolved without penalty); ADR 290 (involving 1,048 contributions that were forwarded untimely in October of an election year); ADR 455 (involving 260 contributions).

This matter presents none of the aggravating circumstances that would support enforcement. *See, e.g.*, First General Counsel's Report, MUR 4886, at 11 (involving allegations that the PAC's corporate sponsor had made prohibited corporate in-kind contributions). While the cumulative dollar amount of the contributions at issue in the referral was \$177,000, that amount does not relate to any cognizable public injury. As discussed above, the limitations and prohibitions of the Act were not implicated here. Neither, too, was any disclosure, for each of the ultimate recipients was able to report its contributions on the same reports that would have shown them had they been forwarded within the 10 days.

Upon considering the one-time nature of the delay, the Committee's otherwise strong compliance record and its prompt efforts to take remedial measures, *see, e.g.*, ADR 352, the Commission should decline to initiate enforcement. We thus respectfully request that the Commission take no further action on the referral.

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Very truly yours,

A handwritten signature in black ink, appearing to read "B. Svoboda", followed by a long horizontal line.

Brian G. Svoboda
Counsel to Democrats Win Seats (DWS PAC) and Vickie Winpisinger, in her official capacity as
treasurer

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